

**RULES AND REGULATIONS  
ZONING BOARD OF APPEALS  
TOWN OF DRACUT**

**ARTICLE 1 - Organization**

**The Zoning Board of Appeals (referred to as “the Board”) shall typically consist of 5 sitting members and 2 alternate members. The Town Manager is the appointing authority for all Board members. The term of appointment is three (3) years.**

**Section 1 – Officers**

At the first regular meeting of the calendar year, the board shall elect all officers of the board to include a Chairperson, Vice-Chairperson and Clerk. Alternates may vote in this election but may not hold one of the above named board positions.

**Section 2 – Chairperson - Powers and Duties**

The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these rules, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

**Section 3 – Vice Chairperson - Powers and Duties**

The Vice-Chairperson shall act as Chairperson in case the Chairperson is absent, disabled or otherwise unable to perform his/her duties.

**Section 4 – Clerk - Powers and Duties**

The Clerk shall be a member of the Board. Subject to the direction of the Board and its Chairperson, he/she shall supervise all of the clerical work of the Board including: all correspondence of the Board, sending of all notices required by law and the rules and orders of the Board, receive and scrutinize all applications for compliance with the rules of the Board, keep dockets and minutes of the Board's proceedings, complete all required records, maintain necessary files and indexes.

**Section 5 – Alternate Member(s)**

The Town Manager shall appoint two alternate members to sit on the Board in case of absence, inability to act or conflict of interest on the part of any board member.

**Section 6 – Quorum**

Four (4) members must be present for a quorum of the Board.

**Section 7 – Regular Meetings**

Regular meetings of the Board of Appeals shall be held a 7:00 pm on the third Thursday of each month. Meetings may be subject to change based on member availability. Said meetings will be held at Dracut Town Hall Selectmen's Meeting Room, 62 Arlington Steet or such other location within the Town that is handicap accessible. In any case, all meetings of the Board will be posted and due notice given as required by applicable State and Town laws or regulations. If a regular meeting day falls on a holiday or an Election Day, the meeting shall be held on the week following, or at such time and place as advertised.

## **ARTICLE II – Applications to the Board**

### **Section 1 – Application Form**

Every application for action by the Board shall be made on the official form. The Building Department Secretary shall provide these forms on request. Any communication purporting to be an application shall be treated as a mere notice of intention to seek relief until such time as it is made on the official application form. All information called for by the form shall be furnished by the applicant in the manner therein prescribed.

### **Section 2 – Plan of Land to Accompany Petition**

Each application and petition to the Board shall be accompanied by seven copies of the following described plan: Sheets of sufficient size and scale to clearly depict the subject property, drawn to scale, 1 inch equals 40 feet. The plan shall have a north point, names of streets, zoning districts, names of owners of properties immediately abutting the subject property, all features pertinent to the relief being sought. The location of buildings or use of the property where a variance is requested and distances from buildings and property lines shall be attested to and verified by a Registered Land Surveyor for the Commonwealth of Massachusetts, and shown on the plan. Any wetlands shall be delineated on the plan. The dimensions of the lot and the required parking spaces shown if applicable. Entrances, exits, driveways, etc. that are pertinent to the granting of the variance shall be shown. The Town of Dracut Zoning Bylaws should be consulted for any instances where more detailed information may be required. All proposed data shall be clearly delineated. A locus map shall be required as part of the above plan.

A table of dimensional requirements shall be included indicating the zoning of the subject property, the dimensional requirements for that zone and a comparative column showing those dimensional requirements as proposed by the petitioner and for which relief is being sought.

### **Section 3 – Fees**

All applications shall be accompanied by one check payable to the Town of Dracut in the amount of \$355.00 (\$200.00 for filing fee and \$155 for advertising fee). The Board shall waive the fee for other Town Boards making application. This courtesy may extend to other Town agencies upon written request. It is suggested that Town agencies requesting said waiver do so well in advance to avoid any delays. The applicant will also be responsible for obtaining and paying for a list of abutters as required by law and this Board. This list of abutters shall be obtained from the Board of Assessors for the Town of Dracut and will require payment of a separate fee. Said list shall accompany the application. The list must be for the current year. Each application shall be accompanied by a copy of the latest deed for the property in question showing current ownership.

## **ARTICLE III - Hearing**

### **Section 1 – Notice**

Notice of hearings shall be advertised as required by the provisions of General Laws, Chapter 40A. In addition, the Board will send a copy of the advertised notice by mail at least 14 days prior to the date of the hearing, with postage prepaid by the applicant or petitioner, to the owners of all property within a 300 foot radius of the affected property as determined by the most recent tax list, to the Planning Board of every abutting City or Town, to the Dracut Planning Board and to the Dracut Building Commissioner.

### **Section 2 – Hearing to be Public**

All hearings shall be open to the public. No person shall be excluded unless he/she is considered by the Chairperson to be a "serious hindrance" to the workings of the Board.

### **Section 3 – Presentation and Absence**

An applicant may appear on his/her own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information as otherwise received.

Representatives other than the owner of the property for which a variance or special permit is being requested shall show proof that they are authorized by the owner to pursue said matter before the Board.

### **Section 4 – Order of Business**

- a. Reading of the petition and legal notices by the chairperson, together with presentation of exhibits.
- b. Applicant's presentation.
- c. Questions by the Board.
- d. Testimony by concerned parties in favor or opposition to the petition.
- e. Questions from those seeking information.
- f. Applicant's rebuttal restricted to matters raised.
- g. Motion to close
- h. Discussion and vote.

### **Section 5 – Brief to the Board**

It is recommended that every petition be accompanied by a brief, setting forth in detail, all facts relied upon to support each application for a variance, special permit and/or appeal by the petitioner. This is particularly desirable in the case of a variance when the following points, based on General Law, Chapter 40A Section 10, should be clearly identified and factually supported.

- a. The particular use proposed for the land or building.
- b. The conditions affecting the property for which a variance is sought.
- c. Facts that make up the hardship as defined in Chapter 40A related to the soil conditions, shape and/or topography of the land.

- d. Facts relied upon to support a finding that the relief sought will be desirable and without substantial detriment to the public good.
- e. Facts relied upon to support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

## **ARTICLE IV - Disposition by the Board**

### **Section 1 – Voting**

The concurring vote of four members voting shall be necessary in any action pertaining to an application before the Board. The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. It shall, in addition, set forth clearly the reason or reasons for its decisions.

### **Section 2 – Withdrawal**

Any petition for a variance that has been transmitted to the Zoning Board of Appeals may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of a public hearing, by notice in writing to the Town Clerk. After publication of the public hearing notice, a petition can only be withdrawn, without prejudice, with the approval of the Zoning Board of Appeals.

### **Section 3 – Recording of Vote**

A detailed record of proceedings, including the vote on each question, must be filed with the Town Clerk in writing within fourteen (14) days of the decision. Copies of all findings and minutes will be sent to the Town Clerk, Planning Board and Petitioner.

### **Section 4 – Reconsideration**

Once a petition has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board.

### **Section 5 – Reapplication**

No petition or application that has been unfavorably and finally acted upon by the Board of Appeals can be acted upon favorably within two years after the date of official unfavorable action unless an appellant or petitioner first submits his appeal, application or petition that has been unfavorably acted upon to the Planning Board. The Planning Board will conduct a public meeting to consider the question of consenting to a repetitive petition. At the public meeting, the Planning Board would consider whether the appellant or petitioner has submitted sufficient information that could lead to a finding that there has been a specific and material change in the conditions upon which the previous unfavorable action was based. All but one member of the Planning Board must vote in favor of allowing the appellant or applicant to resubmit the appeal, application or petition.

Upon obtaining Planning Board consent, the appellant or applicant can file his repetitive petition with the Zoning Board of Appeals in the same manner as the original appeal, application or petition. The Zoning Board of Appeals will consider the question of whether there has been a specific or material change in the conditions upon which the previous unfavorable action was based, and must decide by a vote of four out of five members in favor that the appellant or applicant has demonstrated that there is specific or material change in the petition.

**Section 6 – One-Year Limitation of Grants: Extensions**

If the Board grants an application, all permits necessary for the execution of the work shall be obtained and construction shall be commenced within one year from the date of filing of the Board's decision in the office of the Town Clerk. Reasonable extension of said time may be granted by the Board for good cause shown as outlined in General Laws, Chapter 40A. Said extension will require application to the Board.